

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EDWARD KAMEL ABRAHAM, JR.	:	CIVIL ACTION
	:	NO. 06-0058
v.	:	
	:	
DAVID DIGUGLEILMO, et al.	:	

ORDER

AND NOW, this 25<sup>th</sup> day of May, 2010, in consideration of defendants' motions to dismiss and plaintiff's responses, it is ORDERED that the motions are GRANTED IN PART and DENIED IN PART as follows:

- 1) Defendant Radle's motion to dismiss is GRANTED and the claims against him are DISMISSED;
- 2) Defendant PHS's motion to dismiss plaintiff's section 1983 claim against it is DENIED;
- 3) Defendant Germaine's motion to dismiss plaintiff's section 1983 claim against her is DENIED;
- 4) Defendant Arias's motion to dismiss plaintiff's section 1983 claim against him is DENIED;
- 5) Defendants Germaine's and Arias's motion to dismiss plaintiff's medical malpractice claims sounding in tort against them is DENIED;
- 6) Defendants Germaine's and Arias's motion to dismiss plaintiff's medical malpractice claims sounding in contract against them is GRANTED and that claim against them is DISMISSED; and
- 7) Defendants' motion to dismiss plaintiff's demand for attorney's fees in Counts III

and IV is GRANTED and those demands are DISMISSED.

It is FURTHER ORDERED that plaintiff's motion for leave to amend his section 1983 claim against PHS is GRANTED. He should file any such amendment within fourteen days of the date of this Order.

It is FURTHER ORDERED that the parties submit within fourteen days of the date of this Order additional briefing on the question of whether Pennsylvania law creates a cause of action for monetary damages for violations of the Pennsylvania Constitution.

It is FURTHER ORDERED that the parties agree on a discovery schedule and submit such schedule to the Court within fourteen days of the date of this Order.

/s/ THOMAS N. O'NEILL, JR.  
THOMAS N. O'NEILL, JR., J.